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C O N F I D E N T I A L SECTION 01 OF 03 MONROVIA 000649

SIPDIS

DEPARTMENT FOR AF/W

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TAGS: [EINV](#) [ECON](#) [ENRG](#) [PGOV](#) [LI](#)
SUBJECT: LIBERIA: POWER PROJECT PREVAILS IN THE FACE OF
POLITICAL CONTROVERSY

REF: A)MONROVIA 591 B) MONROVIA 427 C) MONROVIA 336
D) MONROVIA 139

Classified By: CDA Brooks Robinson for reason 1.4 (b) and (d).

11. (C) Introduction and Summary: Buchanan Energy's John MacBain informed President Ellen Johnson Sirleaf and other top officials August 14 that the OPIC Investment Committee's approval of a US\$112 million loan for their proposal to generate electricity from rubber wood chips (Ref B) made at OPIC's September 18 board meeting was now a "formality." Chairman of the National Investment Committee (NIC), Richard Tolbert, responded that despite weeks of controversy regarding investment incentives in general and the company in particular, the Deputy Speaker of the House has assured him Buchanan's proposal will "sail through in a day" when sent to the legislature for ratification.

12. (C) Tolbert had been the target of ill-informed politically motivated legislative attacks regarding investment incentives granted a previous rubber wood chip project by Buchanan Renewable Energy (BRE, Ref D). A flurry of "no-confidence" votes against him and two other officials involved in approving the investment incentives highlighted the legislative focus on personal (as opposed to issues-based) politics and profit, rather than on poverty reduction. The stage-managed controversy, which flared July 24 with Tolbert's testimony, faded August 8 when the House withdrew the no-confidence votes against the three officials (who had sent written apologies to the legislature August 1). Buchanan and Tolbert have emerged unscathed but the same cannot be said for Liberia's investment or political climate. End introduction and summary

The background: "No Confidence" in Chair of NIC

13. (SBU) Buchanan Renewable Energy, which entered Liberia with plans to export rubber wood chips as biomass, is also, under the name Buchanan Energy (BE), moving ahead with plans for the OPIC-supported 34 MW rubber wood chip-powered electricity generation project. (Note: BRE/BE's majority owner is Canadian investor John MacBain. End note.) The dispute centered on failure to seek legislative ratification required for incentives on investments over US\$10 million, and approval of 100% tax waivers, rather than the 90% waivers the NIC is authorized to grant. (Note: Days of discussion of that issue provided confusing misinformation. The GOL Investment Committee had, appropriately, granted customs (not tax) exemptions on BRE imports that totaled approximately US\$3.6 million, not US\$150 million as claimed. End note.) Legislators and the media trumpeted claims that US\$600,000 in revenue from the "illegal tax waiver" was "missing." In fact, the figure bears no relation to any possible calculation of tax or duty on 10% of BRE's investment.

14. (SBU) NIC Chairman Tolbert, after evading legislative

calls for his testimony three times, appeared before the House on July 24 to respond to accusations regarding apparent irregular investment incentives. There had been press reports in the days preceding Tolbert's testimony that he would be charged with contempt of Congress and subjected to fines and imprisonment if he failed to appear. Although he skipped a July 22 deadline to testify, pleading illness, in his testimony two days later he described discrepancies in investment incentive agreements (including the one for BRE) as an "honest error." The House ended the session by voting "no confidence" against Mr. Tolbert by a vote of 25-19 and on July 28 President Sirleaf announced she was declaring BRE's agreement null and void.

The confusion spreads: "No Confidence" in Finance and Justice

15. (SBU) The House followed its no-confidence vote against Tolbert by summoning acting Minister of Finance Tarnue Mawolo and Deputy Minister of Justice Ciennah Clinton-Johnson, who had represented their respective ministries on the inter-agency committee that approved the waivers. Despite Mawolo's eloquent (and accurate) explanation that no laws had been violated as the actual investment amount did not approach the \$10 million threshold requiring legislative approval, and Clinton-Johnson's apologies for the "mistake," both were also subjected to votes of no-confidence on July 29. One newspaper identified the key issue as a struggle over how much power the legislature has over confirmed presidential appointees.

What was the President doing?

MONROVIA 00000649 002 OF 003

16. (C) The President's July 28 declaration that BRE's agreement was null and void, while dramatic, was moot. BRE had never used the incentive because the President had subsequently granted all heavy equipment of the type they imported a 100% duty waiver in an effort to facilitate infrastructure rehabilitation. The President's statement, in which she also said she had been unaware of the provisions of the investment agreement, was troubling. Econoff attended the meeting where she was briefed on BRE's proposal, in which she had stated there would not be any trouble gaining legislative approval for the plans (Ref D). Having fanned the flames, she then declined further comment on the matter, saying the matter had not officially crossed her desk from the legislature.

And suddenly it ends

17. (SBU) Tolbert, while reported as "exasperated" by an American investor who met with him the afternoon of July 24, continued to express public confidence the truth would prevail. He told us privately in early August that he had been advised to stay quiet and apologize regarding the incentive issues. On July 30, he issued a very clear written statement on the process of granting the BRE incentives, which appeared to help calm the waters. Deputy Minister of Finance Mawolo told us July 30 that all numbers being cited by the press and the legislature were baseless; the legislators were in the process of haggling over their share of the "missing" revenue and all would soon blow over. BRE officials, throughout the controversy, said they planned to keep quiet and did not expect the uproar to affect their new power plant deal. Their confidence proved justified. Tolbert's August 14 e-mail response to MacBain's notification of OPIC approval stated that "the tide of public opinion has turned completely in my favor and pro BRE with the House voting by 24-2 to overturn its previous motion and lots of positive newspaper and radio and TV stories on this case."

Now what?

¶18. (C) Although Tolbert, the other GOL officials, and BRE were eventually exonerated, the (grossly inaccurate) public perception is that the NIC granted an illegal tax waiver of US\$150 million to a foreign investor while Liberians are going hungry. At least one American large potential investor contacted post for an explanation of the confusing press reports. The controversy reinforces the conventional wisdom that any legislative involvement in the investment process is a quagmire of delay and rent-seeking, and confirms that legislators are determined to get a share of any deal that looks as if it might be profitable. The much-delayed revisions to the Investment Code (ref C and previous) are still bogged down in negotiations with the Liberian Business Association on protecting segments of the economy for Liberians, but until investment procedures are regularized, and discretionary incentives greatly reduced, Liberia will continue to be a challenge for foreign investors.

Comment

¶19. (C) President Sirleaf's motives are the most intriguing aspect of this drama. The incident could not have been spontaneous, but it is hard to see who benefits (besides the legislators who, we assume, will head off on recess with slightly fatter wallets). We have heard a theory that Tolbert returned to Liberia from the United States in 2005 with Sirleaf's assurance he would be her chosen successor. Certainly, in his own mind, that remains the most likely post-Sirleaf scenario. However, the theory holds, Tolbert has become impatient with Sirleaf's reluctance to clarify transition plans, leading the President to toss him to the mercy of the legislators as a warning not to be too ambitious.

¶10. (C) Tolbert's air of arrogance and entitlement, and his terrible relations with the legislature, have made him the poster child for the return of the True Whig Party Americo-Liberian status quo ante, and may be one reason for Sirleaf's reluctance to embrace him as successor. The situation was probably sparked by personality conflicts and a desire to send a message, but fueled by partisanship and exacerbated by unfamiliarity with the legal or economic issues at stake. Tolbert's name continues to surface when top economic posts are under consideration, most recently as

MONROVIA 00000649 003 OF 003

Budget Director. While we find that option unlikely, we cannot rule out that Sirleaf will once again show favor now that her message, and power, are clear.

¶11. (C) The controversy also highlights tensions between the executive and legislative branch and the immaturity of Liberia's new political framework. The house vote of "no confidence" against the three officials (and the Senate's parallel obsession with concluding a no-confidence vote in its leader) was a significant distraction as Liberia headed into the second month of the fiscal year without a budget. The President has recently stepped up her charm initiative with legislators, meeting them July 30 to update them on the Poverty Reduction Strategy, encouraging her ministers to keep them fully informed, and praising them lavishly during former President Bill Clinton's recent visit. They accepted her request to extend the session in order to address important legislation that was put aside during the futile witch-hunt and to confirm the newest nominees to her economic team (Ref A).

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